

This reply is submitted pursuant to 35 U.S.C. §132 and 37 C.F.R. §1.111. The Office Action was carefully considered by the undersigned attorney and applicant. Reconsideration of the application is respectfully requested.

As the Office Action was "Final", this reply is submitted under the provisions of 37 C.F.R. §1.116. It is believed that the amendment will require only a cursory review by the Examiner and such amendment clearly places the application in a condition for allowance. In the event that the Examiner should not find the application in a condition for allowance, the amendment is believed to remove issues for appeal and should accordingly be entered.

**1. Summary of the Office Action.**

Claims 1, 4-7 and 9-15 were pending.

Claims 4 and 12-15 stand rejected under 35 U.S.C §112, second paragraph.

Claims 1, 4-7, 9 and 11-13 stand rejected under 35 U.S.C §102(b) over Seiler.

Claims 10 and 15 stand rejected under 35 U.S.C §102(b) over Seiler or alternatively under 35 USC 103(a) as being obvious over Seiler.

Claim 14 stands rejected under 35 U.S.C §103(a) over Seiler in view of Official Notice.

**2. Discussion.**

The prior drawing objections are noted. Upon the close of prosecution corrected formal drawings will be submitted.

**Claims 4, 12 and 15.** These claims were rejected under 35 USC §112, second paragraph. Applicant has amended each of these claims to remedy the indefiniteness noted by the examiner. Withdrawal of the rejection is believed to be in order. Applicant's attorney wishes to thank the examiner for pointing out these problems with the claims.

**Claims 1 and 15.** These claims were rejected under 35 USC §102(b) as being anticipated or made obvious by Seiler.

Firstly, **Claim 1** is amended to patentably distinguish over Seiler by defining that the bow aperture be adapted for complete extension of the bow through the aperture.

Secondly, Applicant respectfully disagrees with the examiner's interpretation of the Seiler's elongated elastomeric tubes 35 and 36 as being apertures adapted for extension of the bows of the eyeglasses to the exterior of the body portion. This function of the tubes 35 and 36 is not shown in the drawings or discussed in the text description of the invention by Seiler. Extension of a bow to the exterior of the cover 30 is not even suggested by Seiler. On the contrary, referring to Figures 5-8 and column 5, lines 3-6, Seiler discloses fitting the elastomeric tube 36 over the bow end to surround the bow end. The interior view of Figures 6 and 8 clearly show the bow 13 and 14 ends surrounded by, and not extending out of, the tube 36. Assuming for the sake of argument that a bow could be forced through the tube, Applicant's amendment renders it impossible for any use of the structure of Siler to anticipate applicant's claimed invention. Even if the bow 13 or 14 was to be inserted backwards as suggested by the examiner, the elongated ends 34 and 35 would cover a substantial portion of the bow.

Thirdly, applicant submits that Seiler does not render obvious applicant's claimed invention. The stated purpose of all of the embodiments of the cover disclosed by Seiler, including the embodiment shown and described with respect to Figures 5-8, is to engage glasses with a retainer that are not removed when covering the glasses. This is clearly made apparent in column 6, lines 6-15, wherein Seiler states that one feature common to the four embodiments is "the ability to insert the glasses into the retainer without detachment of the retainer cord or tubes." Therefore, one of ordinary skill in the art would find no motivation to modify the disclosed use of

Seiler, since doing so would defeat its intended purpose, namely to cover glasses without having to detach the glasses from the retainer. See *In re Gordon*, 221 U.S.P.Q. 1125 (Fed. Cir. 1984); and *In re Schulpen*, 157 U.S.P.Q. 52 (CCPA 1968).

It is submitted that this amendment clearly avoids the applied prior art. Withdrawal of the rejection with respect to claim 1 and its dependent claims 4-7 and 9-14, is requested. The claims are believed to be unobvious for the reasons discussed above.

**Claim 15** is amended to further patentably distinguish and limit over Seiler by defining the invention to require all of the elements of claim 1 (twice amended) as discussed above, and to further require that the body have a substantially oval configuration (whereby it has no elongated ends). Applicant's invention as claimed, has the advantage over the applied prior art of optimizing the position of the bow aperture for placing the bow in position for hanging the covered glasses on an exterior object such as a collar or the like. Withdrawal of the rejection with respect to claim 15 is requested.

### **3. Conclusion.**

The claims pending after this amendment are believed to be patentable for the reasons stated above. The amendments are believed to be supported by the specification, claims and drawings as filed. It is believed that this case is now in a condition for allowance. Reconsideration and favorable action are respectfully requested.

**Should the Examiner believe that telephone communication would advance the prosecution of this case to finality, he is invited to call at the number below.**

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time under 37 CFR 1.136(a), provided a Petition is not submitted separately.

Please charge any fee due not paid by a check or credit card provided herewith, and/or charge any underpayment in any fee, and/or credit any overpayment in fee, to Deposit Account No. 19-2381.

<u>Any fees due are calculated as follows:</u>	<u>Number</u>	<u>Fee</u>
TOTAL claims remaining over that previously paid for:	None	\$0
INDEPENDENT claims remaining over that previously paid for:	None	\$0
SUM claim fees:		\$0
EXTENSION fees:		\$0
OTHER fees:		\$0
<u>TOTAL AMOUNT (if any)</u>		\$0
<input type="checkbox"/> Paid by enclosed check.		
<input type="checkbox"/> Paid by enclosed Credit Card Payment Form(s) PTO-2038.		

Respectfully submitted,



Date: 8-11-03

Joel D. Skinner, Jr.  
Reg. No. 33,786

Skinner and Associates  
212 Commercial Street  
Hudson, Wisconsin 54016  
Tel.: (715) 386-5800  
FAX: (715) 386-6177  
Internet e-mail: info@skinnerlaw.com

cc: Mr. Dan Anderson (For Records)

\\SERVER01\SHARED\CLIENTS\AndersonDan - ANDD\USPatApp\OA2.DOC

VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Twice Amended) A protective device for a eyeglasses, comprising a body portion with an edge, said edge defining an ingress/egress opening which is centrally disposed in said body portion, and which is adapted for insertion and removal of eyeglasses relative to an interior pouch defined by the body portion, the protective device further comprising a bow aperture which is disposed in said body portion at and end thereof, and which is adapted for complete extension therethrough of the bow of the eyeglasses to the exterior of the body portion, while the remainder of the eyeglasses are disposed in the interior pouch, whereby said body portion protects the eyeglasses and whereby [the] an entire bow of the eyeglasses is accessible on the exterior of the body portion for hanging the eyeglasses.

4. (Amended) The eyeglass protective device of claim [3] 1, wherein said body portion is formed from a cloth-like material.

12. (Twice Amended) The eyeglass protective device of claim 1, wherein said pouch-like [covering] body portion has a display portion when covering said eyeglasses.

15. (Twice Amended) A flexible, portable, protective device for eyeglasses having a pair of lenses and a pair of bows, comprising:

- (a) a body portion constructed of a stretchable, cloth-like material configured in a pouch configuration, said body portion having an exterior surface and an edge defining a single ingress/egress opening adapted for insertion and removal of the eyeglasses into and from

an interior of the body portion, the body portion having a substantially oval configuration with a lengthwise dimension with opposing end portions and a widthwise dimension which is relatively less than said lengthwise dimension, [and wherein] said ingress/egress opening [is] being centrally disposed with respect to said lengthwise and widthwise dimensions of said body portion and [has] having a predetermined area;

- (b) an elastic band disposed about said edge; and
- (c) a single bow aperture disposed in a predetermined position in said body portion proximate one end portion of said body portion, said bow aperture having a predetermined area which is substantially less than said predetermined area of said ingress/egress opening such that only the bow can extend through it, adapted so that, when the glasses are disposed in said body portion interior, one said eyeglass bow extends through said bow aperture to the exterior of the body portion, while the remainder of the eyeglasses are disposed in the interior pouch, whereby said body portion protects the eyeglass lenses and wherein the extended bow of the eyeglasses are accessible and wherein said extended bow may be used to hang the eyeglasses on an external surface.